

Application Serial No.: 09/898,164
Attorney Docket No.: 0260123

REMARKS

This is in response to the *Final* Office Action of November 5, 2007, where the Examiner has rejected claims 1-2, 4, 8, 10-13, 38-45, 58, 61, 65 and 68-72, and withdrawn claims 62-64 from consideration. By the present Amendment and Response, applicant has cancelled claims 62-64 and 69-72. After the present Amendment and Response, claims 1-2, 4, 8, 10-13, 38-45, 58, 61, 65 and 68 are pending in the present application. An early Notice of Allowance for claims 1-2, 4, 8, 10-13, 38-45, 58, 61, 65 and 68, in view of the following remarks, is respectfully requested.

A. Objection to the Information Disclosure Statement

The Examiner has objected to the Information Disclosure Statement of August 27, 2007. Accompanying the present Amendment and Response, applicant is resubmitting the Information Disclosure Statement with corrections requested by the Examiner. Applicant appreciates the Examiner's statement during a telephonic conversation that the Examiner will consider the references after resubmission.

B. Election by Original Presentation

The Examiner has withdrawn claims 62-64 from consideration as being subject to an election requirement. By the present Amendment and Response, applicant has cancelled claims 62-64.

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C. Rejection of Claims 69-72 under 35 USC § 102(b)

The Examiner has rejected claims 69-72, under 35 USC § 102(b), as being anticipated by Lappington, et al. (USPN 5,638,113) ("Lappington"). Applicant respectfully disagrees; however, in order to expedite the prosecution of the present application, applicant has cancelled claims 69-72. Accordingly, applicant respectfully submits that the Examiner's rejection of claims 69-72 has been rendered moot.

D. Rejection of Claims 1, 2, 4, 8, 11, 38, 41-45, 58, 61, 65 and 68 under 35 USC § 103(a)

The Examiner has rejected claims 1, 2, 4, 8, 11, 38, 41-45, 58, 61, 65 and 68, under 35 USC § 103(a), as being unpatentable over Lappington in view of Brusky, et al. (USPN 5,903,259) ("Brusky").

In rejecting independent claims 1, 38, 58 and 65, the Examiner has cited a new reference, namely Lappington, alleging that Lappington discloses "emitting, by the broadcast receiving appliance, the audio signal including the token from the broadcast receiving appliance." Applicant respectfully disagrees. Applicant respectfully submits that Lappington, just like Mankovitz, which the Examiner has now withdrawn as the primary reference, discloses, teaches and suggests that Lappington's system must have an extraction module at the broadcast receiving appliance to extract the commercial data and another module for transmitting the commercial data via an IR signal to a user device. More specifically, Lappington, at col. 8, line 46 – col. 9, line 15, provides as follows:

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Insertion Card 20 adds (or encodes) the interactive data to the VBI lines of television signal 16, and sends the encoded television signal 22 to a transmitter, all at the direction of data insertion control 14. Data insertion control 14 is responsible for processing, scheduling, time stamping and validation, as well as administrative functions associated with data insertion. Device driver 18 serves as an interface between Insertion Card 20 and data insertion control 14. In an alternative embodiment, rather than using the VBI lines, interactive data could be transmitted using the audio portion of a television signal, luminance, digital packets, radio communication or other appropriate mediums.

Encoded television signal 22 can be sent from satellite transmitter 24 and received by a satellite receiver 26. It is contemplated that satellite receiver 26 could be part of a cable system where the signal received by satellite receiver 26 is then sent via cable TV to home viewers. Instead of using a satellite and a cable system, the television signal could be broadcast using a standard television transmitter, transmitted using straight cable without satellites or transmitted with any other means for transmitting a television signal.

The signal received by satellite receiver 26 is sent to the home viewer where it is received by television set 30 and settop device/converter 28. Television 30 plays the original television program. Settop device 28 receives the encoded television signal and strips out the interactive data. Settop device 28 sends the interactive data by infrared transmission to handheld 32, which presents the interactive program to the home viewer. Thus, while the home viewer watches TV 30, the viewer can participate in the interactive program presented on handheld 32. Although infrared transmission is preferred, any other means for transmission will suffice; for example, radio communication or a wire. Transmission via infrared or radio is more efficient than a wire because many viewers, each with their own handheld, can participate simultaneously. (emphasis added.)

Therefore, in contrast to the Examiner's statement, Lappington does not disclose "emitting, by the broadcast receiving appliance, the audio signal including the token from the broadcast receiving appliance." To the contrary, just as in Mankovitz, which has been withdrawn as the primary reference in view of the previous response to office action, Lappington discloses that the broadcast receiving appliance or the settop box extracts or strips

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the data embedded in the broadcast signal, and the stripped data is then transmitted by the broadcast receiving appliance to the user device using an infrared transmission.

The significance of this patentable difference between the approach of Mankovitz and Lappington, on one hand, and the approach of the invention of claim 1, on the other hand, is that, Mankovitz and Lappington's systems require an extraction module at the broadcast receiving appliance to extract the commercial data and another module for transmitting the commercial data via an IR signal to a user device. In contrast, using the invention of claim 1 of the present application, the broadcast receiving appliance can avoid extracting the token from the broadcast signal and encoding a transmission signal for transmitting the token to a user device. As a result, the broadcast receiving appliance can be simplified by eliminating an extractor for extracting the token and an encoder for encoding a transmission signal for transmitting the token to the user device.

Accordingly, applicant respectfully submits that claim 1 is patentably distinguishable over Lappington in view of Brusky, and should be allowed. Further, independent claims 38, 58 and 65 include limitations similar to those of claim 1, and should also be allowed. In addition, claims 2, 4, 8, 11, 38, 41-45, 58, 61 and 68 depend from claims 1, 38, 58 and 65, and should also be allowed.

E. Rejection of Claims 10, 12, 13, 39 and 40 under 35 USC § 103(a)

The Examiner has rejected claims 10, 12, 13, 39 and 40, under 35 USC § 103(a), as being unpatentable over Lappington in view of Brusky, and further in view of Mankovitz, et al. (USPN 5,523,794) ("Mankovitz").

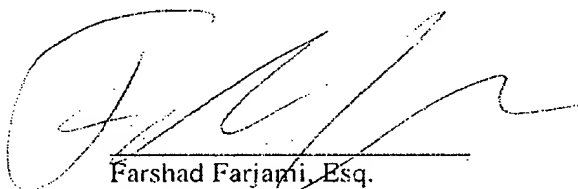
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Applicant respectfully submits that claims 10, 12, 13, 39 and 40 depend from claims 1 and 38, respectively, and should also be allowed at least for the reasons stated above.

F. Conclusion

Based on the foregoing reasons, an early Notice of Allowance directed to all claims 1-2, 4, 8, 10-13, 38-45, 58, 61, 65 and 68 pending in the present application is respectfully requested.

Respectfully Submitted,
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